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Filed : December 2, 2003

REMARKS

Upon entry of the foregoing amendments, Claims 1-30 are pending in the above-captioned application. Claims 11-15, 18 and 15 are withdrawn. Applicants have amended Claims 1, 4, 12, 13. Applicants have added new Claims 29 and 30.

Objections to the Claims

Claims 12 and 14 stand objected to for informalities. Applicants have amended Claims 12 and 14 to correct the informalities identified by the Examiner.

Applicants acknowledge the Examiner's statement that Claims 9 and 21, currently objected to as depending from a rejected base claim, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have added new Claims 29 and 30, which correspond to Claims 9 and 21 in independent form, respectively.

Rejection of the Claims Under 35 U.S.C. § 103(a)

Claims 1-7, 10, 17, 19, 20, 22-24 and 26-28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno et al. (U.S. Pat. No. 5,193,635) in view of Mizuta (U.S. Pat. No. 6,517,111).

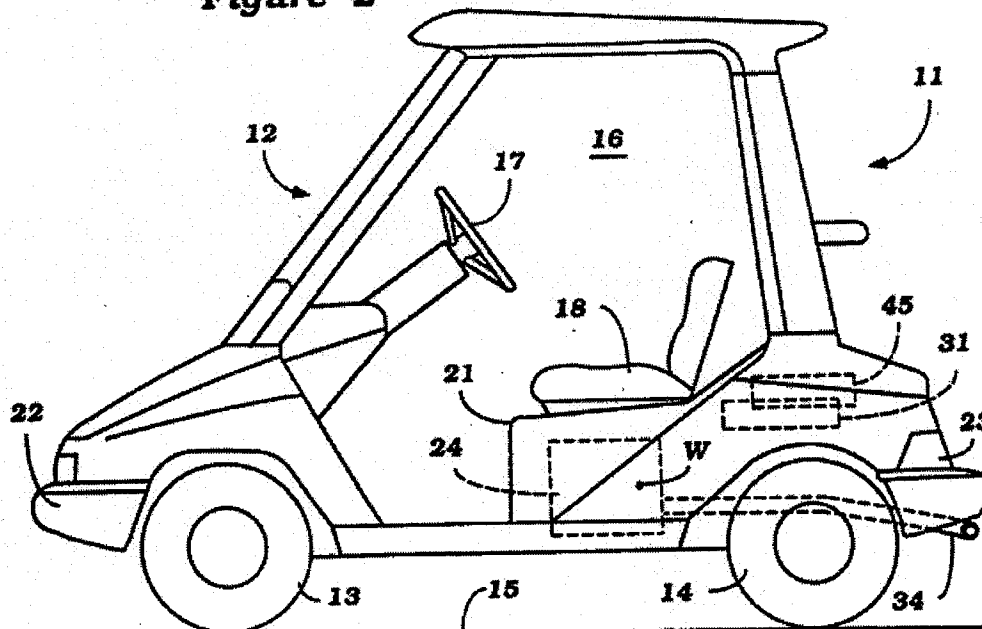
Mizuno et al. discloses a vehicle with a fuel cell assembly. The body assembly 12 of the vehicle 11 defines a passenger compartment 16. "An operator seat and a passenger seat are **mounted on** a raised platform 21 formed in the passenger compartment 16." Col. 3, lines 10-12 (emphasis added). The fuel cell assembly 24 "is positioned beneath the raised platform 21 and specifically beneath the operator's seat 18." Col. 3, lines 21-24; Figure 1. "The exhaust gases from the reformer 29 [of the fuel cell assembly] are delivered to the atmosphere through an exhaust pipe 34 which exits at the rear of the vehicle 11 in proximity to the rear bumper 23." Col. 3, lines 61-64; Figure 2. "The exhaust gases from the fuel cell 25 are also discharged to the atmosphere through an exhaust pipe 36 that extends rearwardly and which terminates adjacent the rear bumper." Col. 3, line 67 – Col. 4, line 2; Figure 1. A series of "batteries 44 are "positioned beneath the raised body portion 21 and specifically beneath the passenger seat 19." Col. 4, lines 20-22; Figure 1.

Mizuta discloses a four-wheeled utility vehicle having a body frame 10 with a front portion 21 and a rear portion 22. See Figure 2.

However, Mizuno does not disclose or teach, alone or in combination with Mizuta, among other things, “an electric-motor operated vehicle comprising an electric motor configured to drive the vehicle, at least one battery configured to supply power to said electric motor, a fuel cell configured to charge said at least one battery, at least one fuel tank configured to supply fuel to said fuel cell, said at least one fuel tank having a front end and a rear end defining a longitudinal axis extending between said front end and rear end, and a partition wall disposed between said at least one fuel tank and said at least one battery,” as recited in amended Claim 1.

The Examiner states that Mizuno discloses that “the seat (19) forms a partition wall between the battery and the fuel tank, as shown in Figure 8.” See Office Action, page 4, lines 4-5. However, as discussed above, Mizuno discloses the seats (18, 19) mounted on the raised platform (21), and the fuel cell and batteries (44) positioned beneath the raised platform (21). This is also clearly illustrated in Figure 1 and Figure 2 of Mizuno (Figure 2 is reproduced below). Figures 7 and 8 of Mizuno also show the seats (18, 19) mounted on the raised platform of the passenger compartment (16). Accordingly, Mizuno only discloses that the fuel cell assembly (24) and batteries (44) are disposed beneath the raised platform (21), but does not disclose a partition between the battery and the fuel tank. Therefore, Applicants respectfully submit that amended Claim 1 is patentable over Mizuno, alone or in combination with Mizuta.

Figure 2



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Claims 2-7, 10, 17, 19, 20, 22-24 and 26-28 depend from amended Claim 1. Accordingly, Claims 2-7, 10, 17, 19, 20, 22-24 and 26-28 are likewise patentable over Mizuno, alone or in combination with Mizuta, not only because they depend from an allowable base claim, but also because each of these claims recites a unique combination of features not taught in the cited art. For example, amended Claim 4 recites a partition that extends generally in the longitudinal direction such that the at least one fuel tank is on one side of the partition and the at least one battery is on an opposite side of the partition. Additionally, Claim 19 recites that the fuel cell is "further configured to discharge water from said fuel cell beneath said vehicle body at a central location along said vehicle width." The Examiner states that "discharging waste water from the fuel cell is inherent." See Office Action, page 4, lines 8-9. However, Mizuno discloses that exhaust from the fuel cell is discharged through pipes (31, 34) proximal the rear bumper (23) of the vehicle, and does not teach discharging "discharge water from said fuel cell beneath said vehicle body at a central location along said vehicle width," are recited in Claim 19. Accordingly, these dependent claims are also allowable over cited references.

Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno and Mizuta, and further in view of Wild (U.S. Pat. No. 3,497,027).

Claim 8 depends from amended Claim 1. Accordingly, Claim 8 is likewise patentable over Mizuno, alone or in combination with Mizuta and Wild, not only because it depends from an allowable base claim, but also because it recites a unique combination of features not taught in the cited art.

Claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno and Mizuta, and further in view of Riemer (U.S. Pat. No. 5,641,031).

Claim 16 depends from amended Claim 1. Accordingly, Claim 16 is likewise patentable over Mizuno, alone or in combination with Mizuta and Riemer, not only because it depends from an allowable base claim, but also because it recites a unique combination of features not taught in the cited art.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks

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referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Applicants also have not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper motivation and suggestion exists to combine these references.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney, in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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